



Effective November 7, 2012

Proposition 36 – The Three Strikes Reform Act of 2012

Key Points:

- This new law allows people currently serving time for a non-serious and non-violent third strike to petition for resentencing as second-strikers. Roughly 2,800 inmates could be eligible, but the courts will ultimately decide eligibility.
- Because this new law requires resentencing, no offenders will be automatically released.
- This new resentencing process will take time to implement. Inmates have up to two years to petition the court for a new sentence.

Background:

This initiative provides that people currently sentenced as third strikers who have a current no serious non-violent offense would be resentenced as second strikers.

Additionally, there are specific offense restrictions for both current and prior offenses for inmates to be eligible for resentencing. Specific offenses include felony sex offenses requiring registration pursuant to PC 290. Also, the offender must not have used or possessed a firearm or deadly weapon or intend to cause harm while committing their current offense.

In addition, the offender must have no prior convictions for

- WIC 6600 (b) (insane person committing a violent sex act),
- Oral copulation, sodomy or sexual penetration with someone less than 14 years old and more than 10 years younger than the offender,
- Lewd and lascivious act with a minor,
- Homicide,
- Attempted homicide,
- Solicitation to commit murder,
- Assault with a machine gun on an officer,
- Weapon of mass destruction,
- A serious or violent crime punishable by a life sentence or death.

How many inmates would be eligible?

CDCR estimates that approximately 2,800 inmates would be eligible for consideration by the courts. The courts would then determine whether the inmates pose an unreasonable risk to public safety.

Proposition 36 would also reduce the length of some sentences served in the future. Some offenders with two prior serious or violent felony convictions who commit non-serious, nonviolent felonies would be sentenced to shorter terms in state prison. CDCR expects that to reduce the prison population by approximately 200 offenders 10 years from now.



What is the process for resentencing?

County courts would conduct resentencing hearings after determining whether the inmate's criminal offense history would make them eligible for resentencing. Under the new law, the court would be required to resentence eligible offenders unless it determines that resentencing would pose an unreasonable risk to public safety. The court can consider the offender's criminal history, the extent of injury to victims, length of prior prison commitments, behavior in prison, participation in rehabilitation programs and any other relevant evidence.

What happens to the inmate if the court does not resentence him/her?

Offenders whose requests for resentencing are denied by the courts would continue to serve out their life terms as originally sentenced.

What happens to the inmate if he/she is released from prison after being resentenced?

Under the law, all second- and third-strikers are required to be supervised in the community after they have served their sentence in state prison. All third strikers are supervised in the community by state parole agents following their release.

For additional information and assistance:

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